

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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<b>DATE FILED:</b> <u>2/10/2023</u>

-----X  
 ILARIA BULGARI, :  
 Plaintiff, :  
 :  
 - against - :  
 :  
 VERONICA BULGARI, in her capacity as :  
 Trustee of the Anna Bulgari Family Trust #1 :  
 And Trustee of the Anna Bulgari Family :  
 Trust #2, :  
 :  
 Defendant :  
 :  
 -----X

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

ORDER: The Court is entering on ECF the unofficial transcript of the proceeding obtained from the Microsoft Teams application. This unofficial transcript is provided at the parties' request for their off-the-record use. The Court has been unable to access a video recording from which an official transcript may be transcribed.

SO ORDERED.




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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: February 10, 2023  
New York, New York

Copies transmitted this date to all counsel of record.

0:0:0.0 --> 0:0:4.100

Judge Robert W Lehrburger

Alright, uh, we have begun a recording.

0:0:4.820 --> 0:0:28.30

Judge Robert W Lehrburger

And we are here for Bulgari versus Bulgari 22CV5072. This is a Discovery Conference to address a variety of issues. It was initiated by me based on the application of the defendant concerning the deposition of Mr Atreides.

0:0:28.750 --> 0:0:31.110

Judge Robert W Lehrburger

Uh, apologize for not pronouncing that correctly.

0:0:32.190 --> 0:0:46.170

Judge Robert W Lehrburger

And in the wake of that, we got the letters from the plaintiff about the Newberger subpoena and the Bulgaria America subpoena, and then the e-mail on Friday.

0:0:47.100 --> 0:1:12.600

Judge Robert W Lehrburger

From that, if defendant regarding several issues, so I I'm perfectly willing to speak to all of those if for some reason and somebody thinks something is premature because it hasn't, they haven't had a chance to respond and would rather do that in writing. We can discuss whether to do that or not. Just give me a second here please.

0:1:33.200 --> 0:1:35.340

Judge Robert W Lehrburger

Trying to get something off my screen.

0:1:43.780 --> 0:1:45.110

Judge Robert W Lehrburger

Alright so.

0:1:46.890 --> 0:1:54.450

Judge Robert W Lehrburger

Let's begin with the Atreides deposition. But before we do, let's have Council put in their appearances. Who will be speaking on behalf of plaintiff?

0:2:12.720 --> 0:2:13.210

Judge Robert W Lehrburger

OK.

0:1:59.820 --> 0:2:21.600

Skinner, Peter M.

Your Honor, Peter Skinner from Morrison, Forrester. Mr Boys and Mr Schwartz were planning to take the weed for plaintiffs. They've texted me that they are trying, that they were on, but got kicked out. And they're trying to relog back in. I don't wanna hold the cord up, so I'm happy to fill in for them. But if

you want to give them another moment while others are taking appearances, they may join in the interim.

0:23.540 --> 0:26.540

Judge Robert W Lehrburger

Alright, well that's fine. And who's here for the defense?

0:27.540 --> 0:27.70

Mitch Karlan (Guest)

Your Honor, Mitch Carlin from Gibson, Dunn and Crutcher.

0:34.290 --> 0:36.540

Judge Robert W Lehrburger

And who's on for any third party?

0:37.430 --> 0:37.790

Cummings, Charles B.

But.

0:39.900 --> 0:40.170

Waleska Suero Garcia

No.

0:41.90 --> 0:41.480

Waleska Suero Garcia

There you go.

0:42.450 --> 0:43.20

Waleska Suero Garcia

You're on that.

0:37.80 --> 0:45.770

Mitch Karlan (Guest)

And you're apologize. Apologize, your honor. I didn't mean to omit them. Mr Rosen sale is on from Capuchin as well.

0:46.130 --> 0:46.600

Judge Robert W Lehrburger

OK.

0:46.350 --> 0:46.970

Waleska Suero Garcia

Can't hear any.

0:46.960 --> 0:47.450

Michael Rosensaft (Defendant)

Good morning.

0:2:48.910 --> 0:2:51.640

Judge Robert W Lehrburger

Morning. And is there anyone on for any third party?

0:2:52.830 --> 0:2:54.140

Waleska Suero Garcia

I could make it two years.

0:2:52.920 --> 0:3:0.240

Cummings, Charles B.

Your Honor, Charles Charles Cummings from Baker and McKenzie Council for thorough tradies.

0:3:1.440 --> 0:3:1.880

Judge Robert W Lehrburger

OK.

0:3:4.110 --> 0:3:4.520

Skinner, Peter M.

I.

0:3:3.980 --> 0:3:4.800

Judge Robert W Lehrburger

Anybody else?

0:3:7.580 --> 0:3:8.670

Judge Robert W Lehrburger

Alright, anybody else?

0:3:8.480 --> 0:3:14.710

Skinner, Peter M.

You're right. I see that Mister Boys is just just join you right now. So we'll. So he's taking a minute to to get his audio gone.

0:3:12.190 --> 0:3:14.910

Judge Robert W Lehrburger

Yes, I I see that. I see that as well.

0:3:16.430 --> 0:3:17.70

Judge Robert W Lehrburger

Do you see that?

0:3:19.340 --> 0:3:20.270

Waleska Suero Garcia

OK, it's working now.

0:3:32.250 --> 0:3:32.670

Waleska Suero Garcia

Alright.

0:3:39.140 --> 0:3:40.730

Waleska Suero Garcia

Hi, can you hear us?

0:3:41.620 --> 0:3:44.0

Judge Robert W Lehrburger

Yes, we can hear you, Mr Boys, and we can see you.

0:3:44.660 --> 0:3:45.890

Waleska Suero Garcia

OK, I apologize.

0:3:46.800 --> 0:3:47.680

Waleska Suero Garcia

Apologize.

0:3:49.70 --> 0:3:50.280

Waleska Suero Garcia

That's some feedback.

0:3:50.630 --> 0:3:51.310

Judge Robert W Lehrburger

Not a problem.

0:3:53.150 --> 0:3:53.640

Waleska Suero Garcia

Howard.

0:3:57.160 --> 0:3:57.580

Waleska Suero Garcia

Whoops.

0:3:59.670 --> 0:4:0.40

Waleska Suero Garcia

What?

0:4:1.30 --> 0:4:1.630

Waleska Suero Garcia

That's just.

0:4:1.770 --> 0:4:2.310

Waleska Suero Garcia

Report.

0:4:5.200 --> 0:4:5.770

Waleska Suero Garcia

OK.

0:4:9.940 --> 0:4:10.580

Waleska Suero Garcia

Hopefully.

0:4:11.210 --> 0:4:12.810

Waleska Suero Garcia

No, we still have the feedback.

0:4:13.870 --> 0:4:23.870

Judge Robert W Lehrburger

Yeah, your voice is coming in and out. I'm not sure if that has to do with how close you are to the microphone or or connection, but it's a little sounds like it's little underwater.

0:4:24.580 --> 0:4:26.210

Waleska Suero Garcia

What? What happened was we had.

0:4:27.80 --> 0:4:33.710

Waleska Suero Garcia

It connected, died, went to a laptop and I didn't think that we managed to turn off the.

0:4:40.500 --> 0:4:42.380

Waleska Suero Garcia

They're gonna go going to different room.

0:4:43.0 --> 0:4:44.440

Waleska Suero Garcia

So we'll be able to.

0:4:46.160 --> 0:4:46.870

Waleska Suero Garcia

If you can give us.

0:4:48.710 --> 0:4:52.50

Waleska Suero Garcia

Admitted or two. Gonna move with it. Move and tried to get.

0:4:53.0 --> 0:4:53.340

Judge Robert W Lehrburger

OK.

0:4:53.260 --> 0:4:53.480

Waleska Suero Garcia

Yeah.

0:4:56.680 --> 0:4:57.310

Waleska Suero Garcia

That's good.

0:5:33.50 --> 0:5:33.700

David Boies

Hello.

0:5:33.930 --> 0:5:35.280

Judge Robert W Lehrburger

Yes, that's much better.

0:5:35.570 --> 0:5:41.980

David Boies

OK, I think we've I think we've we moved to it a timely different office and escaped the.

0:5:43.270 --> 0:5:43.660

David Boies

Uh.

0:5:43.740 --> 0:5:43.880

David Boies

Yeah.

0:5:45.40 --> 0:5:45.770

David Boies

Our original.

0:5:46.910 --> 0:5:48.940

David Boies

Connection. I apologize.

0:5:48.480 --> 0:5:51.760

Judge Robert W Lehrburger

Alright, that's alright. So just putting your formal appearance, please.

0:5:53.10 --> 0:5:54.330

David Boies

This is David, boys.

0:5:55.840 --> 0:6:3.490

David Boies

On a boy should or flexner, representing the plaintiff and a match. Swartz is also here.

0:6:4.210 --> 0:6:4.610

David Boies

Thank you.

0:6:5.280 --> 0:6:7.30

Judge Robert W Lehrburger

Alright so.

0:6:6.250 --> 0:6:10.320

David Boies

Good morning. I'm gonna walk down the hall to my office. OK. OK.

0:6:10.970 --> 0:6:11.590

David Boies

21 screen.

0:6:11.650 --> 0:6:30.880

Judge Robert W Lehrburger

So as I said, we're gonna begin with the issue of the Treaties deposition. And as I said, I've gotten the correspondence, including from Mr Cummings. And I'm just wondering whether anything further has happened with respect to him.

0:6:31.310 --> 0:6:38.840

Judge Robert W Lehrburger

Uh, that would change anything, anything from the defense side of that.

0:6:39.510 --> 0:6:40.190

Mitch Karlan (Guest)

No, your honor.

0:6:40.720 --> 0:6:41.970

Judge Robert W Lehrburger

Way of anything new.

0:6:42.800 --> 0:6:43.550

David Boies

I know you're.

0:6:43.870 --> 0:6:44.640

Judge Robert W Lehrburger

Mr Cummings.

0:6:45.110 --> 0:6:45.360

Cummings, Charles B.

No.

0:6:46.160 --> 0:6:48.570

Judge Robert W Lehrburger

All right. So let me ask the defendant something.

0:6:49.760 --> 0:6:59.540

Judge Robert W Lehrburger

As I recall, the main purpose of having Mr Ed trees deposed was in relation to to photographs that he had taken. Is that correct?

0:7:0.660 --> 0:7:2.70

Mitch Karlan (Guest)

That is correct, your honor.

0:7:2.170 --> 0:7:8.550

Judge Robert W Lehrburger

Alright. And is do you need anything beyond authentication of those photographs?

0:7:11.180 --> 0:7:12.690

Mitch Karlan (Guest)

No, and.

0:7:15.200 --> 0:7:26.40

Mitch Karlan (Guest)

One of the reasons that we have not pursued remedies as of this time against the witness for his failure to appear at the deposition.

0:7:27.100 --> 0:7:28.990

Mitch Karlan (Guest)

Which was not. Whoops, we.

0:7:30.180 --> 0:7:32.480

Mitch Karlan (Guest)

There you are. OK. Sorry, judge.

0:7:33.720 --> 0:7:35.650

Mitch Karlan (Guest)

Which was not done with our consent.

0:7:36.790 --> 0:8:0.740

Mitch Karlan (Guest)

Is that at the plaintiff step position she in our in our view authenticated the photographs. So she didn't obviously take them. She she testified that they were photographs of her home and and that the poster paper in the photographs were were hers as well. So while I haven't had a chance to.

0:8:1.960 --> 0:8:12.710

Mitch Karlan (Guest)

Speak with Plaintiffs council on this subject and I suspect they'll have relevance, objections and other sorts of things. I I don't think there is any longer any dispute.

0:8:14.70 --> 0:8:15.380

Mitch Karlan (Guest)

That the photographs.

0:8:16.260 --> 0:8:24.930

Mitch Karlan (Guest)

Ferial fairly and accurately depict the home of the plaintiff and the posters that were on the wall.

0:8:25.870 --> 0:8:45.980

Judge Robert W Lehrburger

All right. In that case, then, what's left of your letter, it seems, is your request to be able to move for sanctions or some other relief with respect to the letter that boys shell or sent to Mr Atris. Council. Is that correct?

0:8:46.370 --> 0:8:56.200

Mitch Karlan (Guest)

Yes, and in particular judge would because I haven't had a chance to speak to the plaintiff council about the authenticity issue. If there are objections at trial.

0:8:57.460 --> 0:9:20.990

Mitch Karlan (Guest)

And and they're sustained based on the testimony of the plaintiff, we would certainly have Mr Atreides on our witness list and subject to a subpoena and would want him to testify and are and are unhappy about, to put it mildly, about what we perceived to be a witness tampering.

0:9:21.710 --> 0:9:22.900

Judge Robert W Lehrburger

Alright, alright.

0:9:25.180 --> 0:9:32.410

Judge Robert W Lehrburger

But let me ask you, are you still, is it still your desire to actually make a formal motion?

0:9:35.120 --> 0:9:42.590

Mitch Karlan (Guest)

Unless the plaintiffs are prepared to agree to leave, this poor man alone, yeah.

0:9:45.120 --> 0:9:56.960

Judge Robert W Lehrburger

So, Mr Boys, Mr Skinner, what's your position? Is this something we can drop? And would you be willing to agree that the plaintiffs testimony was sufficient to authenticate the photos?

0:9:58.60 --> 0:10:4.270

David Boies

I believe that the plaintiffs testimony does authenticate that these were photos that were taken.

0:10:5.390 --> 0:10:29.940

David Boies

In her apartment of objects in her apartment, whether it's fair and accurate, description of it is probably in the eye of the beholder. But but in terms of the authenticity of the photographs as being actual photographs taken of her apartment and of objects and papers in her apartment, we believe that her testimony authenticates that.

0:10:30.900 --> 0:10:33.790

Judge Robert W Lehrburger

Or, uh Mr Cummings, is there anything you want to say?

0:10:34.720 --> 0:10:35.310

Cummings, Charles B.

I know you're on.

0:10:52.970 --> 0:10:53.260

Mitch Karlan (Guest)

With.

0:10:36.90 --> 0:11:4.100

Judge Robert W Lehrburger

Alright, so it sounds to me like this issue can be dropped that based on the representations made regarding the authentication of the photos and therefore I am going while I've answered the conference to discuss the motion, I do not see any need for a formal motion to be filed at this point, so I'm going to deny it without prejudice.

0:11:6.450 --> 0:11:6.910

Mitch Karlan (Guest)

Understood.

0:11:7.710 --> 0:11:20.280

Judge Robert W Lehrburger

Alright, so that brings us to the issue of the Newberger subpoena, and I believe this is the one where I do have a response. Hold on.

0:11:22.420 --> 0:11:43.100

Judge Robert W Lehrburger

Yeah. So where are we on on this? It seems like if it's something again where discovery is appropriate, it's gonna be had and there's a dispute of basically about how broad and what's going to be, who's going to deal with the privilege issues. If I describe that right? Or would you describe it differently? Mr Boyd? Mr Skinner.

0:11:45.460 --> 0:11:47.10

David Boies

It's Mr Skinner on.

0:11:47.550 --> 0:11:47.940

Judge Robert W Lehrburger

Yes.

0:11:50.420 --> 0:11:51.150

Skinner, Peter M.

Yeah, I'm here.

0:11:51.890 --> 0:11:54.260

David Boies

Uh, can you answer that question?

0:11:56.100 --> 0:12:20.250

Skinner, Peter M.

Yeah. Judge, I I I think you're correct that there is a disagreement with respect to kind of who should be asserting the privilege and how it should be asserted. We also just have the issue that at this point in time, we've been trying to get the documents from Neuberger for months, and they haven't sent us anything that would not be privileged. And we think we need an order from the court compelling them to produce something because they don't seem inclined to act with without that type of an order.

0:12:20.950 --> 0:12:25.450

Judge Robert W Lehrburger

Have you provided any notice to them of today's conference?

0:12:25.910 --> 0:12:38.590

Skinner, Peter M.

Yes, we provided them with the with notice. Well, I should say I I don't know specifically. We provided the notice of today's conference. I think we did, but we've certainly provided them notice of all the correspondence and the motions.

0:12:41.510 --> 0:12:45.500

Judge Robert W Lehrburger

OK. And Mr Carlin, what is the defense side of things here?

0:12:48.380 --> 0:13:1.370

Mitch Karlan (Guest)

Just to pick up on that last point, Judge, I don't, I don't know who is counsel for Newberger. Mr Rosensaft, who's on the phone? May know that. But I don't believe that in the.

0:13:2.610 --> 0:13:12.520

Mitch Karlan (Guest)

E-mail notices we have received from your honors chambers about today that any lawyer from Newberger was on those emails.

0:13:13.910 --> 0:13:14.750

Skinner, Peter M.

The like that.

0:13:13.680 --> 0:13:19.210

Judge Robert W Lehrburger

Yeah. And the courts certainly was not aware of who may be representing new burgers, so.

0:13:19.710 --> 0:13:20.990

Skinner, Peter M.

Yeah, that's that's correct.

0:13:20.520 --> 0:13:23.110

Judge Robert W Lehrburger

I can't, so I.

0:13:22.250 --> 0:13:24.720

Skinner, Peter M.

It's been an in house lawyer from news from Neuberger.

0:13:25.520 --> 0:13:44.210

Judge Robert W Lehrburger

OK, but uh, I I don't see how we can discuss it with any further substance without someone representing new Burger. But if there's an issue as between the defendant and the plaintiff with respect to the new burger documents, we can discuss that.

0:13:46.290 --> 0:13:47.520

Judge Robert W Lehrburger

Mr yeah.

0:13:46.210 --> 0:13:49.290

Mitch Karlan (Guest)

In in general, I'm sorry. I'm sorry, judge, in general.

0:13:48.780 --> 0:13:49.720

Judge Robert W Lehrburger

No, I.

0:13:50.390 --> 0:14:0.320

Mitch Karlan (Guest)

And I apologize for speaking over you, judge. In in general, there is a concern on the part of the defendant that these are false hits.

0:14:1.540 --> 0:14:3.700

Mitch Karlan (Guest)

My understanding is that.

0:14:4.800 --> 0:14:33.580

Mitch Karlan (Guest)

As your Honor knows, you know nowadays all documents are electronic, so all documents searches are done electronically and and by word search end. So things come up that aren't really responsive until some human has looked at them. And our understanding is that there should not be literally any documents at Neuberger Berman that relate to the issues in this case and and as your Honor generally knows.

0:14:36.410 --> 0:15:3.120

Mitch Karlan (Guest)

But outside of this case, there is this other proceeding in the surrogates court and in connection with the preparation of that accounting. The lawyers at CAT and who have largely been kicked, you know, not largely who have completely been carrying the load on that burden, did communicate with with Newberger. Michael, do you wanna just speak to that? And what? What what, what? The basis of our understanding is that there should not be any documents.

0:15:4.160 --> 0:15:21.440

Michael Rosensaft (Defendant)

Yeah, I'm happy too. So I I spoke to council for Newberger. Her name is Kit Addleman. She's attained spoon, and to my knowledge she does not know about this conference. She actually wasn't even served the motion to compel as of the date I spoke to her.

0:15:22.130 --> 0:15:28.550

Michael Rosensaft (Defendant)

Umm, but she she indicated to me that kind of based on a cursory review, the.

0:15:29.250 --> 0:15:40.80

Michael Rosensaft (Defendant)

The documents that came up from the electronic search fall into kind of three buckets. 11 is, you know, bulgary advertisements and things that I doubt plaintiffs want.

0:15:40.550 --> 0:16:10.900

Michael Rosensaft (Defendant)

Uh to uh is internal audit statements and you know that has information about other clients and processes that I'm sure they would object to and we see no reason why they'd be relevant to this case. The third bucket is the family trust had one investment in a fund that was at Neuberger. It was very recent. It's been disclosed in the judicial accounting. Presumably plaintiffs know all about it, but.

0:16:11.0 --> 0:16:18.680

Michael Rosensaft (Defendant)

That is the one category that could pertain to the trust. I don't think we have any objection to them producing that.

0:16:19.130 --> 0:16:28.700

Michael Rosensaft (Defendant)

UM, and if that's all that plaintiffs are seeking, then I think I can't speak for Neuberger, but I I think this dispute probably.

0:16:29.630 --> 0:16:31.340

Michael Rosensaft (Defendant)

That would not need to be presented to your Honor.

0:16:33.230 --> 0:16:33.930

Judge Robert W Lehrburger

Mr Skinner.

0:16:34.610 --> 0:17:6.420

Skinner, Peter M.

It yet what we're looking for are the investments related to trust. One, we're also looking for correspondence related to trust 1. The defendant has represented in the to us as well as in her filings and the surrogates court that she has taken efforts to reach out to the other investment firms where investments were held on behalf of Trust, one as part of her, you know, compliance with her fiduciary duties, the any correspondence she's had with Neuberger to try and get records related to investments held by trust. One would also be responsive and we'd be looking for those.

0:17:6.530 --> 0:17:24.950

Skinner, Peter M.

Or equally equally relevant to us would be representation from the bank that there are none of those. So I think you know, to the extent that Mister Rosensaft is saying that Neuberger is prepared to produce

documents related to investments that the firm held. I'm half trust one. That's what we want, and that's what we would like to produce.

0:17:26.630 --> 0:17:34.890

Judge Robert W Lehrburger

OK, so it sounds to me like this is ultimately something lawyers can reasonably agree upon. What needs to be done to make that happen?

0:17:37.740 --> 0:18:7.410

Skinner, Peter M.

Well, neuberger's been saying that they can't produce anything to us under the existing protective order because they think they need additional protections beyond that. We have asked defense Counsel to sign on to a new order that had been negotiated with number that shouldn't say in order a new agreement between the parties with respect to how to handle the documents produced by Neuberger, they wouldn't sign it. So we're kind of in a situation now where Neuberger won't send us anything without this enhanced agreement between the parties.

0:18:7.750 --> 0:18:14.830

Skinner, Peter M.

Or in order from the court, I would think saying, you know, the existing protective orders Ward is sufficient to protect your interests.

0:18:16.440 --> 0:18:19.130

Judge Robert W Lehrburger

URL for Mr Residence safe. I'm sorry.

0:18:19.20 --> 0:18:46.340

Michael Rosensaft (Defendant)

But thank you. You're honour, right? If the if all plaintiffs are looking for are the documents related to trust ones investments in that one fund, which is my understanding is all Neuberger has, I don't think they'll have an issue because they're their biggest concern was their internal processes and other clients. And my, my supposition is that those that subset of documents.

0:18:46.430 --> 0:19:2.420

Michael Rosensaft (Defendant)

That they won't have a concern under the protective order if if they do, we're happy to to sign on to whatever they feel is appropriate within reason, are concerned with not signed up to that additional protective order earlier. Was all these false hits that were coming up but.

0:19:2.950 --> 0:19:7.990

Michael Rosensaft (Defendant)

Umm, you know if if we've whittled that down, then you know, we'll work it out with them. I don't think they'll be any issue.

0:19:8.610 --> 0:19:40.550

Judge Robert W Lehrburger

Yeah, it seemed to me that the what it just thinking through and surmising what their concerns would be in wanting a higher degree of protection in some way was precisely the third party issue in particular.

So it sounds like this can't be worked out. I'm gonna ask cancel to do is to confer with each other, have a call with Defense Council and playing of Council and Newberger and within the next week and see if you can come to an agreement.

0:19:40.800 --> 0:19:58.40

Judge Robert W Lehrburger

If there's still an issue after a week from today, which would be the 13th, then it plain of can come back to the court, but it should obviously keep the number or Council in the loop on everything so that they can be involved.

0:19:58.890 --> 0:20:0.930

Judge Robert W Lehrburger

But hopefully that will get worked out.

0:20:3.670 --> 0:20:4.540

Judge Robert W Lehrburger

OK.

0:20:19.430 --> 0:20:38.230

Judge Robert W Lehrburger

Alright. And then the next one I have is the Bulgari America subpoena to which I do not have any response yet based on the fact that the letter concerning the issue was submitted on February 3rd, Mr Carl. And is that something you're prepared to respond to you now?

0:20:38.960 --> 0:20:58.350

Mitch Karlan (Guest)

I am your honor. And I'm. I'm thank you for calling on me. I I was disappointed to see in the letter from defendants football. Pardon me from plaintiffs that your Honor was not made aware that this witness, this company, has absolutely no relationship to the Bulgari family.

0:21:0.10 --> 0:21:4.380

Mitch Karlan (Guest)

This is, as your Honor may or may not know the family.

0:21:4.460 --> 0:21:11.980

Mitch Karlan (Guest)

The all the the business some years ago to another luxury retailer and.

0:21:12.970 --> 0:21:24.380

Mitch Karlan (Guest)

Uh. While the company exists this, this, this particular company that is the witness here exists, it is not owned in any way by any member of the Bulgari family.

0:21:29.510 --> 0:21:29.780

Judge Robert W Lehrburger

OK.

0:21:31.350 --> 0:21:41.940

Mitch Karlan (Guest)

And I was not aware until I got the letter that Miss Root of who your Honor may remember from prior motion practice was apparently according to the plaintiff employed by by Bulgari America.

0:21:43.300 --> 0:21:44.130

Mitch Karlan (Guest)

Focus your.

0:21:42.880 --> 0:21:49.410

Judge Robert W Lehrburger

OK, so they are strictly a third party then, and it sounds like it's a. Is that right, Mr Skinner? Mr Boyd.

0:21:50.390 --> 0:21:54.190

David Boies

They they are a third party. You're honor. Who owns them?

0:21:55.530 --> 0:22:0.530

David Boies

Isn't really from our perspective, the point the the point is that.

0:22:3.320 --> 0:22:3.990

David Boies

Miss rudder.

0:22:5.310 --> 0:22:17.800

David Boies

Asserted that she didn't have the ability to produce these documents, and so we had to go to her employer, which is Bulgaria, America. And so we've gone to her employer to get.

0:22:19.160 --> 0:22:27.490

David Boies

The emails of the court will recall that we originally tried to take Miss Rudy's deposition. The court denied that without prejudice.

0:22:30.170 --> 0:22:35.800

David Boies

And give us an opportunity to try to establish more relevance. We need the documents to do that.

0:22:37.170 --> 0:22:42.320

David Boies

And so, regardless of whether this is owned by the Bulgari family or General Motors.

0:22:43.820 --> 0:22:48.520

David Boies

They have her emails and so we need to subpoena them for.

0:22:48.320 --> 0:22:59.570

Judge Robert W Lehrburger

Yeah, I'm. I'm not questioning the the potential relevancy. I would just questioning the fact that again we have a third party who is not represented at this conference and don't know that I can do anything.

0:23:0.310 --> 0:23:5.280

Judge Robert W Lehrburger

Alright, so I think it's premature, don't you think?

0:23:6.200 --> 0:23:11.10

David Boies

I I I think I think your honor is correct. I think. I think we should have.

0:23:12.150 --> 0:23:16.110

David Boies

Uh, uh. We we should have given them notice and they should have been.

0:23:16.820 --> 0:23:17.170

David Boies

I agree.

0:23:22.780 --> 0:23:22.970

David Boies

But.

0:23:16.670 --> 0:23:28.340

Judge Robert W Lehrburger

Well, that's a I mean again it was, you know, you brought it up only on Friday. So I can understand why this wouldn't be happening yet. But I think that needs to happen 1st. And then if we need to have a conference we we can do so alright.

0:23:28.110 --> 0:23:28.360

David Boies

I.

0:23:29.40 --> 0:23:36.50

Judge Robert W Lehrburger

So then there were the handful of issues that the defense wrote about on Friday.

0:23:37.370 --> 0:23:40.730

Judge Robert W Lehrburger

Mr boys, Mr skin, are these things that you're prepared to discuss today?

0:23:42.70 --> 0:23:43.930

David Boies

Mr Schwartz, who I think is also on.

0:23:45.250 --> 0:23:49.510

David Boies

Is prepared to discuss those to the extent the court wants to do that.

0:23:49.170 --> 0:23:49.620

Judge Robert W Lehrburger

OK.

0:23:50.720 --> 0:24:1.800

Judge Robert W Lehrburger

All right. So the first item I have is a privilege log and just getting a date by which plaintiff will submit a privilege log. Mr Schwartz.

0:24:2.610 --> 0:24:18.670

Matthew L. Schwartz

Sure. So we we actually met and conferred on this among other issues this past week on Wednesday the 1st we were we were due to continue that conversation on Friday but.

0:24:20.770 --> 0:24:46.700

Matthew L. Schwartz

I think we in defendants had a mutual scheduling mishap and we didn't connect on Friday. So I think it may be in a number of these issues may be premature because there were open issues, for example, with respect to the privilege log we had posed the question can we exclude from the log communications with our firm, Boise Schiller, Mr Skinner's firm, Morrison, Forrester, as well as our clients prior firm Curtis Malay.

0:24:49.280 --> 0:25:8.90

Matthew L. Schwartz

Not having to log those communications will result in incredible efficiency, and it seems to me, obviously those are privileged and not subject to challenge, but we haven't got an answer to that question and there, you know, there are other things that we talked about, things like that will allow us to.

0:25:9.960 --> 0:25:28.50

Matthew L. Schwartz

Move forward with this, because obviously now that we've gotten an answer from the Court on the Boyer privilege issue, which was a substantial gating item, there's no reason to delay and we're prepared to produce a log. It's simply a matter of what needs to be in it and the more.

0:25:28.730 --> 0:25:29.230

Matthew L. Schwartz

Umm.

0:25:30.430 --> 0:25:38.350

Matthew L. Schwartz

The the more it needs to include those plainly privileged communications, the longer it will take, but either way, you know we're talking about a matter of a few weeks.

0:25:43.330 --> 0:25:44.130

Mitch Karlan (Guest)

Yeah. Yes.

0:25:45.360 --> 0:25:45.720

Mitch Karlan (Guest)

Yes.

0:25:39.980 --> 0:25:49.430

Judge Robert W Lehrburger

Well, is there anything that can be answered now, Mr Carlin or Mr Rosensaft? The the issue of whether those items should be logged relating to the three firms?

0:25:50.130 --> 0:25:52.40

Mitch Karlan (Guest)

Yes, your honor. It it can be.

0:25:53.200 --> 0:25:54.10

Mitch Karlan (Guest)

The.

0:25:55.150 --> 0:26:7.480

Mitch Karlan (Guest)

Uh log need not include any privileged communications that occurred after the date the complaint was filed.

0:26:9.420 --> 0:26:18.170

Mitch Karlan (Guest)

With respect and I think that probably takes care of most of the boys, Schiller, Morrison and Forrester issue with respect to.

0:26:19.630 --> 0:26:26.570

Mitch Karlan (Guest)

Curtis Malay, I would respectfully suggest that that is not a appropriate because for, among other reasons.

0:26:27.950 --> 0:26:29.80

Mitch Karlan (Guest)

Curtis Malay.

0:26:30.30 --> 0:26:55.320

Mitch Karlan (Guest)

A partner at Curtis Malay, Mr Robert Sheehan, was for I believe, about a year. The Co trustee of the Ellaria Trust, and it would certainly be our position that those communications are not privileged and not asking the Court to rule on that today. But if the if a privilege is going to be claimed with respect to those, then they should be on the log.

0:26:56.240 --> 0:27:3.10

Judge Robert W Lehrburger

OK, well, assuming those go on the log then and the other two do not, Mr Schwartz, when can you have a log?

0:27:3.90 --> 0:27:5.820

Judge Robert W Lehrburger

Uh, prepared and delivered.

0:27:6.680 --> 0:27:36.770

Matthew L. Schwartz

So I I I don't have right in front of me the breakdown of how much that cuts out or doesn't cut out. And there was, as the defendants know, a pretty substantial pre filing investigation here. That means the cut off of the filing of the complaint in June is material. But but there's still a lot of Boise Schiller communications that will need to be logged. What I will do if it is acceptable to the court is consult with my team and endeavor.

0:27:36.930 --> 0:27:48.960

Matthew L. Schwartz

You promise to give Mr Carlin by the end of the day today a date by a date in February by which we will give them a privilege log. And if for whatever reason that's a problem, we can come back to your own.

0:27:50.40 --> 0:27:51.280

Mitch Karlan (Guest)

That's that's wonderful, judge.

0:27:51.880 --> 0:27:52.280

Judge Robert W Lehrburger

Alright.

0:27:53.790 --> 0:27:54.90

Judge Robert W Lehrburger

Yep.

0:27:52.100 --> 0:27:55.130

David Boies

Your, Your Honor, could I just interject one thought.

0:27:55.730 --> 0:27:56.210

Judge Robert W Lehrburger

Yep.

0:27:56.350 --> 0:27:57.500

David Boies

And I wonder.

0:27:58.500 --> 0:28:4.80

David Boies

It would expedite things if we were not. I understand Mr Carlin's point about Curtis.

0:28:6.0 --> 0:28:13.80

David Boies

But that doesn't apply to Morrison Forest or a boy, Schiller, and I wonder whether we can't. Just not.

0:28:14.260 --> 0:28:28.470

David Boies

Lawn the communications with boys, Schiller and Morrison. Whether they preceded or followed the

filings of the complaint, there's still gonna be privileged either way, and it is. It is certainly gonna delay things.

0:28:29.670 --> 0:28:33.900

David Boies

If we have to log everything that went on in the pre complaint investigation.

0:28:34.440 --> 0:28:38.390

Judge Robert W Lehrburger

Right. So I I think I'm gonna leave you all to really sort that out, but.

0:28:39.490 --> 0:29:9.800

Judge Robert W Lehrburger

I there should be a log that is produced with the date certain in February that contains at least everything else, and I would also say Curtis Malay as to Boise, Schiller and and the other firm. I would just say if you end up because of the volume that is gonna be on it and needing more time than fine, but you may all agree to be able to narrow that down to something that's.

0:29:10.320 --> 0:29:11.960

Judge Robert W Lehrburger

That's more manageable, alright.

0:29:13.100 --> 0:29:13.710

Judge Robert W Lehrburger

OK.

0:29:13.660 --> 0:29:14.110

Matthew L. Schwartz

That's fine.

0:29:17.920 --> 0:29:21.630

Mitch Karlan (Guest)

With respect to the next point, judge, there is a small update if I may.

0:29:21.920 --> 0:29:22.520

Judge Robert W Lehrburger

Sure, click.

0:29:23.510 --> 0:29:27.700

Mitch Karlan (Guest)

I believe it was Friday. I think it was Friday. I I'll be corrected if I'm wrong.

0:29:29.0 --> 0:29:31.450

Mitch Karlan (Guest)

Mr Boyer produced 30 documents.

0:29:32.850 --> 0:29:51.580

Mitch Karlan (Guest)

And no log and we don't based on our conversations that Mister Schwartz referred to, it's our

understanding that the 30 documents do not constitute the entire production and that more may or will become and of course the log issue is still out there. So that's the update there, judge.

0:29:53.250 --> 0:30:6.930

Matthew L. Schwartz

And that that's that's correct. So the the materials that we produced last week were the complete production of Mr Boyer's documents that were not.

0:30:7.350 --> 0:30:7.850

Matthew L. Schwartz

Umm.

0:30:9.360 --> 0:30:13.0

Matthew L. Schwartz

Were not subject to review pending the privilege issue.

0:30:14.230 --> 0:30:26.850

Matthew L. Schwartz

And so the remainder of the documents, which is the vast majority of the documents that are being reviewed now implicate the courts, privilege ruling and and candidly a lot of them are requiring.

0:30:27.950 --> 0:30:40.980

Matthew L. Schwartz

You know multi level review of chains within chains and redactions, all all that said, I anticipate that we'll be in a position to produce the remainder of Mr Boyer's documents within the week.

0:30:42.180 --> 0:30:42.460

Judge Robert W Lehrburger

Hey.

0:30:42.120 --> 0:30:44.30

Mitch Karlan (Guest)

Great. And and a long goal so.

0:30:46.600 --> 0:30:53.0

Matthew L. Schwartz

But it if it's acceptable to the court, let's talk about that, but certainly won't be any later than the plaintiffs privilege log.

0:30:53.500 --> 0:30:54.590

Mitch Karlan (Guest)

Great. Thank you.

0:30:57.180 --> 0:30:59.180

Judge Robert W Lehrburger

Great. Sounds like that's been worked out.

0:31:0.690 --> 0:31:1.370

Judge Robert W Lehrburger

Just a moment.

0:31:12.210 --> 0:31:21.700

Judge Robert W Lehrburger

All right. And then that brings us to the question of a Rule 35 exam, many developments there, Mr Chrome.

0:31:23.760 --> 0:31:24.240

Judge Robert W Lehrburger

Alright.

0:31:22.260 --> 0:31:27.930

Mitch Karlan (Guest)

No, your honor. And just I I didn't want to burden the court with a very, very long e-mail.

0:31:29.220 --> 0:31:45.480

Mitch Karlan (Guest)

It's not like we want the Rule 35 exam, we just want fairness. So it's got to be one or the other. It's either of these issues are in the case or they're not. And if they're not, we should have an agreement that there isn't gonna be some backdoor sympathy play at the trial.

0:31:47.440 --> 0:32:7.550

Judge Robert W Lehrburger

Well, I want to make sure I understand the question is to the extent that the plaintiff is claiming damages due to emotional or psychological harm, then you want the ability to have an examination of her for that purpose. But if she is not claiming that, at least not beyond garden variety, then.

0:32:8.990 --> 0:32:12.0

Judge Robert W Lehrburger

You do not need examinations that correct.

0:32:12.590 --> 0:32:20.550

Mitch Karlan (Guest)

I I don't need an examination if we have an agreement or an order that the witness.

0:32:22.90 --> 0:32:33.280

Mitch Karlan (Guest)

Is not that the that the plaintiff, excuse me, is not going to testify at the trial. How? How sad she is and and how devastating this all has been for her.

0:32:38.180 --> 0:33:3.310

Judge Robert W Lehrburger

Well, there's a difference between sadness and psychological harm. So I I don't know that you can take this as far as you just suggested, but let me ask the the planet are you is your client going to be an issue claiming damages resulting from psychological harm and emotional distress?

0:33:4.700 --> 0:33:13.520

Matthew L. Schwartz

So let let me let me say two things about that, something legal and something practical. It's just that on the legal point.

0:33:15.350 --> 0:33:37.650

Matthew L. Schwartz

Mr. Cohen is asking for an examination under Rule 35, where alternative relief rule 35A2 prescribes a very specific way that they have to tee up that application. It's gotta be on good cause. It's gotta contain notice of the time, place and manner of the examination. Who's gonna do it? And so plainly there's not been compliance with.

0:33:39.190 --> 0:33:41.590

Matthew L. Schwartz

With the letter or the spirit of Rule 35, that's.

0:33:44.430 --> 0:33:44.720

Matthew L. Schwartz

Right.

0:33:40.670 --> 0:33:47.170

Judge Robert W Lehrburger

Well, I don't. I don't think. I think they're trying just to address the issue before determining if they have to go down that road so.

0:33:47.130 --> 0:34:17.720

Matthew L. Schwartz

Right. And then but that's because everyone that's the practical point, everyone knows the answer to the question of whether we are seeking emotional distress damages. The complaint is clear or disclosures have been clear about the categories of damages that we are seeking. And so the record is clear. No one thinks intentional distress damages are available for breach of fiduciary duty. What Mr Carlin is asking for now, though, goes substantially beyond the question of categories of damages to proof at trial.

0:34:18.720 --> 0:34:24.880

Matthew L. Schwartz

And and he is asking the court to now limit or for the plaintiffs to know, agree to.

0:34:34.920 --> 0:34:35.250

Judge Robert W Lehrburger

Sure.

0:34:26.470 --> 0:34:35.640

Matthew L. Schwartz

What evidence will come in at trial that, to my eyes, is the proper subject of of motion and lemonade for Judge Schofield?

0:34:37.80 --> 0:34:37.340

Matthew L. Schwartz

Yeah.

0:34:36.120 --> 0:34:42.840

Judge Robert W Lehrburger

No, sure so so but I but just I thought I heard you say intentional distress rather than emotional distress.

0:34:43.320 --> 0:34:53.590

Judge Robert W Lehrburger

Umm it for my clarification just remind me is your clients seeking damages for emotional distress or psychological harm?

0:34:54.40 --> 0:34:54.350

Matthew L. Schwartz

No.

0:34:55.870 --> 0:35:19.580

Judge Robert W Lehrburger

OK, alright. So with that, I will leave you all to figure out for the defendant to figure out whether they want to move or a rule 35 and follow the appropriate procedure that you know based on that answer. I'm not sure whether it would be forthcoming or not. And I agree that issues about sadness and otherwise will be dealt with.

0:35:20.100 --> 0:35:23.310

Judge Robert W Lehrburger

Uh, at pretrial and lemonade. It's Carla.

0:35:24.270 --> 0:35:42.80

Mitch Karlan (Guest)

The judge, based on Mr Schwartz, is unequivocal representations just now. We see no basis for a Rule 35 exam. May I inquire, judge whether it will be you or the District Court that will be handling motions and lemonade?

0:35:44.200 --> 0:35:45.30

Mitch Karlan (Guest)

OK. Thanks.

0:35:42.530 --> 0:35:49.630

Judge Robert W Lehrburger

That would be the District Judge unless, unless unless referred to me. But it in connection with trial, that would be the District Judge.

0:35:50.50 --> 0:35:50.660

Mitch Karlan (Guest)

Thank you, Joe.

0:35:54.180 --> 0:36:8.130

Judge Robert W Lehrburger

Right. And then the last item were request 1/2 and five and I guess there's a question of when documents will be produced. So do I have that right, Mr Carla?

0:36:8.670 --> 0:36:11.0

Mitch Karlan (Guest)

Yes, your honor. Thank you. OK.

0:36:9.890 --> 0:36:14.750

Judge Robert W Lehrburger

OK. Anything that defense can? I'm sorry. Plaintiff can tell us in that regard.

0:36:15.370 --> 0:36:45.280

Matthew L. Schwartz

Sure. So that this is another category. Just so your Honor has the chronology we we only submitted our responses and objections timely on January 27th and this was part of our meeting confirmed last week. These three categories call for documents about the the first two call for documents about my clients ex-husband and her divorce more than a decade ago. It is you know.

0:36:45.340 --> 0:36:49.470

Matthew L. Schwartz

Totally unclear to us what the possible relevance of that is, but putting that aside.

0:36:50.90 --> 0:36:54.320

Matthew L. Schwartz

Umm. And at the last category is for.

0:36:56.70 --> 0:37:2.780

Matthew L. Schwartz

The hard copies that physical copies of these poster boards that.

0:37:4.60 --> 0:37:19.450

Matthew L. Schwartz

Uh, then Mr Entreaties took pictures of from the apartment. Uh, are you know, Mr Carlin said before that all discovery is electronic to the extent all discovery is electronic there, there are. There are no responsive documents that we've been able to locate.

0:37:20.660 --> 0:37:23.460

Matthew L. Schwartz

And the only reason we have not said that definitively.

0:37:25.130 --> 0:37:43.810

Matthew L. Schwartz

He is, as Mr Carlin knows, there is there is the question of a physical inspection of the apartment which we're endeavoring to do, but sub subject to that there are no responsive documents and once once we get to the apartment, we will, if Mr Carlin wants, amend our objections or tell them definitively.

0:37:44.380 --> 0:37:50.830

Judge Robert W Lehrburger

Yeah, I I I heard the if it's only electronic, so do those boards still exist?

0:37:51.420 --> 0:37:58.980

Matthew L. Schwartz

Our understanding is not, but Mr Carlin has asked us to please go to the apartment and triple check. So we will do that.

0:38:2.670 --> 0:38:2.880

Mitch Karlan (Guest)

Right.

0:38:0.930 --> 0:38:9.220

Judge Robert W Lehrburger

Alright. And again, Mr Carlin issue you were raising seemed to be timing, but what do you wanna say?

0:38:11.530 --> 0:38:12.900

Mitch Karlan (Guest)

Was that question to me, judge?

0:38:13.90 --> 0:38:13.390

Judge Robert W Lehrburger

Yeah.

0:38:13.820 --> 0:38:17.160

Mitch Karlan (Guest)

Yeah. So Mr Schwartz is helpfully.

0:38:18.280 --> 0:38:26.170

Mitch Karlan (Guest)

Broken these this issue into two pieces that the the divorce piece and the and the poster piece. If I could just speak to them separately.

0:38:29.350 --> 0:38:56.500

Mitch Karlan (Guest)

Judge, as you may or may not recall from the complaint, a A rather dramatic melodramatic maybe allegation in the complaint is that the existence of these trusts, the family trust, and the fact that the plaintiff had a contingent beneficial interest in the trust, was not revealed to her by her mother or the defendant.

0:38:57.200 --> 0:39:2.850

Mitch Karlan (Guest)

Until after the mother's death in 2000, I believed 19, I believe.

0:39:4.280 --> 0:39:27.580

Mitch Karlan (Guest)

In fact, documentary Discovery has established unequivocally that the plaintiff was aware of the existence of the trusts and her contingent beneficial interest in the trust, in no later than 2006. The reason we know that is that the plaintiff was going through a rather.

0:39:28.660 --> 0:39:36.250

Mitch Karlan (Guest)

Unpleasant divorce, as they all are, I guess in 2006 and her then husband.

0:39:37.590 --> 0:39:53.180

Mitch Karlan (Guest)

Through his lawyers wanted Discovery about the, you know, where's the money and how much is it? Right. And so there's car. There's contemporaneous cars, confidence about that with lawyers at the plaintiff step position.

0:39:55.140 --> 0:39:57.990

Mitch Karlan (Guest)

She was asked by me.

0:39:59.690 --> 0:40:4.620

Mitch Karlan (Guest)

To look at these correspondence and did this refresh your recollection that she knew all about it and she said no?

0:40:6.0 --> 0:40:34.610

Mitch Karlan (Guest)

So we're trying to pursue that and uh, the plaintiff has. I've asked the plaintiff directly whether they will withdraw that allegation from the complaint. They've told me they won't. I don't know why. But anyway, it's something that's gonna get tried, I guess. And so we have asked for documents between the plaintiff and her divorce lawyer or the file of the divorce to further confirm that this was known.

0:40:34.750 --> 0:40:38.140

Mitch Karlan (Guest)

To the plaintiff into in 2006 and the.

0:40:39.600 --> 0:40:59.150

Mitch Karlan (Guest)

The plaintiff has not said they won't produce it, they just, they said they will produce it when they find it and they won't tell us when. So again, if the end of February is fine with me, if that's if that's acceptable. I just need a date by which we know we're gonna get this or not with respect to the post. It's.

0:41:1.560 --> 0:41:18.80

Mitch Karlan (Guest)

The risk of going into more detail than Your Honor wants the the Post-its were in the apartment at in 2020. In December of 2020, the plaintiff and Mr Boyer vacated the apartment we guessed for the apparently for the last time.

0:41:19.780 --> 0:41:22.480

Mitch Karlan (Guest)

And they decamped for other countries.

0:41:25.380 --> 0:41:33.440

Mitch Karlan (Guest)

During Interrogatory and document Discovery early in the case, we asked whether there were electronic or paper files.

0:41:34.60 --> 0:41:47.110

Mitch Karlan (Guest)

Uh at the apartment in Manhattan that were responsive or relevant to this case, and the answer came back. No, that may have been that answer may have been premature because it appears that no.

0:41:48.190 --> 0:41:55.260

Mitch Karlan (Guest)

Actual effort to determine the answer to the question was made. That isn't it appears nobody actually went to the apartment to look.

0:41:56.870 --> 0:42:24.840

Mitch Karlan (Guest)

If the post it's exist, then obviously they should be produced. I don't see any objection to that from the defendant, far from the plane. If if they don't exist, I believe we're entitled to some representation of the circumstances under which they were lost or destroyed, and none has been forthcoming. It's not respectfully sufficient to say they used to be in the apartment and now they're not. And whoops, we we we're entitled to a little, a little more than that.

0:42:25.500 --> 0:42:51.830

Judge Robert W Lehrburger

Well, OK, but that again, we're premature there. That's an if and certainly you need to the answer first whether they do or do not exist in confirmation on that. And then if you seek discovery on how that came about and you'll ask for that and see if the plane is agrees or not or whether you have an issue, you need to bring to me. But in terms of timing?

0:42:53.430 --> 0:42:58.760

Judge Robert W Lehrburger

Mr Schwartz, I think Mr Carlin said he was just looking for assurance that.

0:43:0.80 --> 0:43:19.80

Judge Robert W Lehrburger

He gave me answer and the any such material found in the apartment is produced by the Ohh and I'm sorry. And from regarding the the communications with the ex-husband and attorneys from back then concerning the trust whether that could all be done by the end of February.

0:43:20.30 --> 0:43:20.440

Matthew L. Schwartz

Yes.

0:43:22.600 --> 0:43:22.900

Judge Robert W Lehrburger

Great.

0:43:24.820 --> 0:43:26.10

Judge Robert W Lehrburger

So I think.

0:43:27.520 --> 0:43:32.190

Judge Robert W Lehrburger

We have run the list of Mr Carlin. Was there anything else?

0:43:33.10 --> 0:43:40.910

Mitch Karlan (Guest)

With judge, let me raise something on which I think Council can agree that's so rare, but let that we should celebrate it.

0:43:42.360 --> 0:43:54.20

Mitch Karlan (Guest)

I believe technically the last day for discovery in this case is now in the middle of February, maybe towards the end of February. Something like that, and I think it's agreed that.

0:43:55.300 --> 0:44:6.740

Mitch Karlan (Guest)

At least one deposition deposition that is of of Mr Hemo is agreed to be taken in in March, with your Honor's permission on that.

0:44:9.190 --> 0:44:12.380

Judge Robert W Lehrburger

Is. Is that correct? Let me just check with the uh planner.

0:44:13.80 --> 0:44:14.770

David Boies

Yeah. Yeah, yeah, yeah, yes.

0:44:12.870 --> 0:44:18.240

Matthew L. Schwartz

That that's correct. And the the and there are other depositions.

0:44:19.480 --> 0:44:26.310

Matthew L. Schwartz

For which we are awaiting dates, including the continued deposition of the defendant, she.

0:44:26.960 --> 0:44:27.470

Mitch Karlan (Guest)

Right.

0:44:27.60 --> 0:44:36.490

Matthew L. Schwartz

She wasn't able to sit for the full 7 hours on one day, which was fine, but by agreement will continue that at a date that we still have to nail down.

0:44:37.40 --> 0:44:37.450

Mitch Karlan (Guest)

True.

0:44:36.980 --> 0:44:41.380

Judge Robert W Lehrburger

Well to you, is anyone asking for a general extension of the deadline?

0:44:43.660 --> 0:44:44.420

Mitch Karlan (Guest)

We are, we are.

0:44:43.400 --> 0:44:48.870

David Boies

But I I think I think I think there will be is the is at the end of February now.

0:44:49.880 --> 0:44:50.400

Skinner, Peter M.

It's Umm.

0:44:49.580 --> 0:44:51.680

Mitch Karlan (Guest)

23rd is 23rd.

0:44:51.210 --> 0:44:51.750

David Boies

23rd.

0:44:51.120 --> 0:44:52.50

Skinner, Peter M.

25th I think.

0:44:52.450 --> 0:44:53.340

Mitch Karlan (Guest)

My first OK.

0:44:53.640 --> 0:44:56.170

David Boies

And I I think that it's likely that.

0:44:57.730 --> 0:45:6.160

David Boies

We we just had a a request, an objection from Morgan Stanley. I think from there I I think realistically there are gonna be.

0:45:7.280 --> 0:45:12.580

David Boies

Issues with respect to discovery that we will have noticed before the date but.

0:45:13.700 --> 0:45:15.280

David Boies

Probably is not going to get completed.

0:45:17.0 --> 0:45:21.910

David Boies

Not not only the Mr Haemo and the defendant, but.

0:45:29.970 --> 0:45:30.440

Judge Robert W Lehrburger

Holiday.

0:45:25.80 --> 0:45:33.20

David Boies

There will be banks and and and I'm and and maybe we will get finished with Mr Boyer or not, but I I I I think that.

0:45:35.900 --> 0:45:37.470

David Boies

It it's likely that it's gonna.

0:45:39.190 --> 0:45:40.440

David Boies

Bleed over into March.

0:45:41.760 --> 0:45:43.660

Judge Robert W Lehrburger

All right, Mr Carlin, you video.

0:45:44.250 --> 0:45:59.10

Mitch Karlan (Guest)

Just that I've no objection to us having until the end of March to complete noticed discovery. I would ask that no new discovery be noticed after today when that, you know, soon.

0:46:2.580 --> 0:46:3.740

Judge Robert W Lehrburger

What's the plans for you on that?

0:46:4.820 --> 0:46:9.530

David Boies

I I think that that's a reasonable request. I mean, I think we ought to.

0:46:11.880 --> 0:46:17.70

David Boies

And have maybe to the end of this week to notice whatever remaining depositions.

0:46:18.390 --> 0:46:20.200

David Boies

And and then it ought to be.

0:46:20.280 --> 0:46:20.620

David Boies

Yeah.

0:46:21.860 --> 0:46:22.690

David Boies

No more.

0:46:23.470 --> 0:46:25.980

David Boies

Known as as, except for good cause show or something.

0:46:26.820 --> 0:46:27.710

Mitch Karlan (Guest)

That's fine, judge.

0:46:28.210 --> 0:46:28.560

Judge Robert W Lehrburger

All right.

0:46:29.470 --> 0:46:31.960

Judge Robert W Lehrburger

Great, I will issue something to that effect.

0:46:33.40 --> 0:46:36.400

Judge Robert W Lehrburger

Alright, so I think that's it. Anything else from the plaintiff side?

0:46:37.950 --> 0:46:38.600

David Boies

No, your honor.

0:46:40.130 --> 0:46:40.810

Judge Robert W Lehrburger

Mr Cronin.

0:46:41.320 --> 0:46:47.10

Mitch Karlan (Guest)

Judge, this is an awkward remark. Does your Honor have any?

0:46:47.90 --> 0:47:1.510

Mitch Karlan (Guest)

A ability to expedite the wrong word, but to to get us a ruling on the long-suffering long pending motion to dismiss one of the issues that we briefed.

0:47:2.150 --> 0:47:7.420

Mitch Karlan (Guest)

Umm. Was subject matter jurisdiction, which seems a little anyway.

0:47:8.800 --> 0:47:13.760

Mitch Karlan (Guest)

It would be. It would be great to know if the court has subject matter jurisdiction of this case soon.

0:47:13.610 --> 0:47:15.580

Judge Robert W Lehrburger

When, when? When was the motion failed?

0:47:17.140 --> 0:47:17.630

Mitch Karlan (Guest)

Michael.

0:47:19.330 --> 0:47:19.800

Judge Robert W Lehrburger

Roughly.

0:47:18.870 --> 0:47:23.530

Michael Rosensaft (Defendant)

I I believe I'll have to look back. I believe it was fully briefed that by the end of September.

0:47:24.440 --> 0:47:26.270

Skinner, Peter M.

It was, it was fully briefed in mid-october.

0:47:26.660 --> 0:47:27.210

Michael Rosensaft (Defendant)

Mid-october.

0:47:27.720 --> 0:47:28.390

Mitch Karlan (Guest)

Thank you, Peter.

0:47:28.810 --> 0:47:29.130

Judge Robert W Lehrburger

OK.

0:47:31.710 --> 0:47:33.0

Matthew L. Schwartz

And the answer is yes.

0:47:32.200 --> 0:47:37.180

Judge Robert W Lehrburger

I I can inquire, but I can't at all promise that.

0:47:37.840 --> 0:47:50.440

Judge Robert W Lehrburger

Anything will will come from it and that it won't otherwise proceed in the normal course of where it's being dealt with. I understand that is certainly a question that everyone would like to know sooner rather.

0:47:51.650 --> 0:47:56.670

Judge Robert W Lehrburger

Then later, including the court and perhaps I can just.

0:47:58.160 --> 0:48:4.50

Judge Robert W Lehrburger

Raise a flag that that is an issue that is still yet to be determined alright.

0:48:9.530 --> 0:48:9.730

David Boies

Yeah.

0:48:5.760 --> 0:48:9.790

Mitch Karlan (Guest)

Thank you, judge, and thank you for hearing us on so many issues on such short notice.

0:48:10.300 --> 0:48:12.930

Judge Robert W Lehrburger

Not a problem. Alright, everyone, be well. We're adjourned.

0:48:13.80 --> 0:48:13.440

Cummings, Charles B.

Thank you.

0:48:13.50 --> 0:48:13.680

David Boies

Thank you, Anna.

0:48:14.130 --> 0:48:14.540

Michael Rosensaft (Defendant)

Thank you.

0:48:14.430 --> 0:48:14.860

David Boies

Take care.

2:49:55.270 --> 2:49:56.60

Judge Robert W Lehrburger

I'll call you back.

2:49:57.220 --> 2:49:57.670

Judge Robert W Lehrburger

Alright, bye.